

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 MARCUS SEARLS,

11 Plaintiff,

v.

12 GRAYS HARBOR COUNTY, THE
13 CITY OF OAKVILLE, THE CITY OF
14 ELMA, STEVE LARSON, and
15 RICHARD FLETCHER,

Defendant.

CASE NO. C11-5673RBL

ORDER

16 THIS MATTER is before the Court on Motions to Dismiss filed by Defendant City of
17 Oakville [Dkt. #14], and by Defendant Grays Harbor County [Dkt. #17]. The Court has
18 reviewed the materials for and against said Motions, as well as the Complaint for Damages
19 Under 42 U.S.C. § 1983 [Dkt. #1] and the First Amended Complaint for Damages Under 42
U.S.C. § 1983 (proposed) [Dkt. #30]. Oral argument is not necessary. For the following
20 reasons, the Motions to Dismiss under Fed. R. Civ. P. 12(b)(6) are **GRANTED**. The Motion to
21 Amend the Complaint [Dkt. #30] is **DENIED**.

22 A plaintiff alleging municipal liability for civil rights violations must prove three
23 elements: (1) a violation of his/her constitutional rights, (2) the existence of a municipal policy or
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1 custom, and (3) a causal nexus between the policy or custom and the constitutional violation.
2 *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 691 (1978). A plaintiff must
3 show that the municipality acted with the requisite degree of culpability, and he must
4 demonstrate a direct causal link between the municipal action and the deprivation of federal
5 rights. *Bd. of County Comm'r's of Bryan County v. Brown*, 520 U.S. 397, 404 (1997). In other
6 words, the municipality's actions must be the "moving force" behind the rights deprivation. *Id.*
7 On the other hand, §1983 liability cannot be vicarious or premised on respondeat superior. *Polk*
8 *County v. Dodson*, 454 U.S. 312, 325 (1981); *Monell*, 436 U.S. at 690-94.

9 No set of facts can be cobbled so as to present evidence of a custom, pattern or policy
10 that permits deliberate indifference. If the allegations are true, Steve Larson was engaged in
11 illegal conduct in furtherance of his personal frolic and detour. Neither Grays Harbor County
12 nor the City of Oakville is alleged to be the "moving force" behind the alleged civil rights
13 violation. Plaintiff's proposed Amended Complaint does not remedy this flaw in his claims
14 against the City and County, and his Motion to Amend [Dkt. #30] is **DENIED**. The Motions to
15 Dismiss [Dkt #14 and Dkt. #17] are **GRANTED** and the claims against Grays Harbor County
16 and City of Oakville are **Dismissed With Prejudice**.

17 Dated this 28th day of December, 2011.

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20 RONALD B. LEIGHTON
21 UNITED STATES DISTRICT JUDGE
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